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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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HOLLINGSWORTH & FUNK, LLC
8009 34TH AVE S.
SUITE 125
MINNEAPOLIS, MN 55425

EXAMINER

GILBERT, ANDREW M

ART UNIT	PAPER NUMBER
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3767

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,051

Applicant(s)

WILSON, BRUCE

Examiner

Andrew M. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9, 10 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 10 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/30/2006 has been entered.

Acknowledgements

2. This office action is in response to the reply filed on 6/30/2006.
3. In the reply, the Applicant cancelled claim 8 and put the subject matter into claim 1. Additionally, the Applicant amended claims 9 and 10 so they depended from claim 1.
4. The Applicant additionally explicitly stated that the Applicant intends to invoke 35 USC 112(6th) paragraph for claims 18-20.

Specification

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Apparatus for Guide Catheter Positioning.

Claim Notes

6. In reference to claims 18-20, the Examiner notes that the Applicant has invoked 35 U.S.C. 112 6th paragraph by using "means for" language, reciting function, and not reciting sufficient structure of the means referred to in the specification.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Buchbinder et al U.S. Pat. No. 4,757,827. Buchbinder discloses a guiding catheter system comprising: a flexible shaft having a distal end shaped (3, 23, 42 and 64); and a handle assembly (60 and/or 62) movably coupled to the flexible shaft, the handle assembly comprising a guide member (65, Fig 6) attached to the shaft and a housing (62) movable coupled to the guide member via a multiple slot and pin arrangement (66, 67), the flexible shaft selectably movable between a plurality of discrete position of a first degree-of-freedom defined relative to the flexible shaft (col. 4), the flexible shaft restrained in the first degree-of-freedom at each position of the plurality of discrete position (fig. 1), the flexible shaft movable through a predetermined displacement of a second degree-of-freedom defined relative to the flexible shaft at each position of the plurality of discrete positions (col. 4); and wherein motion of the flexible shaft relative to the handle assembly results in a controllable sweeping motion at the distal end the

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flexible shaft (col. 4); as to claims 2-3, (fig. 6); as to claim 4, (66); as to claim 5, (fig. 6); as to claim 6, (66); as to claims 7 (fig. 6).

9. The Examiner further notes that, Buchbinder clearly teaches a handle movably coupled to a flexible shaft, wherein the flexible shaft is selectably movable between a **plurality of discrete positions** of a first degree-of-freedom defined relative to the flexible shaft (figs. 1-3 and 6). Buchbinder additionally teaches a flexible shaft restrained in the first degree-of-freedom at each position of the plurality of discrete positions (col. 4). Note: Applicant has not indicated in the claims **how** the flexible shaft is being restrained in the first degree of freedom. The shaft could be restrained *manually* or by a mechanical structure. Furthermore, Buchbinder teaches a flexible shaft that is movable through a predetermined displacement of a second degree-of-freedom defined relative to the flexible shaft at each position of the plurality of discrete positions (figs. 1-3, 6 and col. 4). Finally, Buchbinder apparatus is fully capable of the various degrees of freedom because movements causes the distal end of the guidewire to deflect either toward or away from its longitudinal axis thus causing a longitudinal displacement. For the record, the device of Buchbinder is fully capable of an infinite amount of degree of freedom and is fully capable of being selectably movable between a plurality of discrete positions manually. The Examiner suggests that the Applicant add additional structure and claim language to distinguish the manner that the Applicant's invention is selectively moveable and restrained to distinguish over Buchbinder.
10. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Peterson et al (6755812).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

11. Peterson et al discloses a guiding catheter system comprising: a flexible shaft having a distal end shaped (Fig 1); and a handle assembly (107) movably coupled to the flexible shaft, the handle assembly comprising a guide member (406) attached to the shaft and a housing (405) movable coupled to the guide member via a multiple slot and pin arrangement (Fig 4a; col 8, lns 60-col 9, lns 14), the flexible shaft selectively movable between a plurality of discrete position of a first degree-of-freedom defined relative to the flexible shaft (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary), the flexible shaft restrained in the first degree-of-freedom at each position of the plurality of discrete position (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary), the flexible shaft movable through a predetermined displacement of a second degree-of-freedom defined relative to the flexible shaft at each position of the plurality of discrete positions (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary); and wherein motion of the flexible shaft relative to the handle assembly results in a controllable sweeping motion at the distal end the flexible shaft (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary); as to claims 2-3, (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary); as to claim 4, (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary); as to

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claim 5, (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary); as to claim 6, (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary); as to claim 7 (Figs 3a-4c; col 8, lns 60-col 9, lns 14; Summary).

12. Claims 1-7, 9, 10, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Khairkhahan et al (6179809). Khairkhahan et al discloses a guiding catheter system comprising: a flexible shaft having a distal end shaped (Figs 6a-f; Fig 9); and a handle assembly (172) movably coupled to the flexible shaft (110), the handle assembly comprising a guide member (150) attached to the shaft and a housing (156) movable coupled to the guide member via a multiple slot and pin arrangement (Fig 6D; 27, 25, 152; Figs 6a-f; col 7, lns 30-col10, lns 14), the flexible shaft selectably movable between a plurality of discrete position of a first degree-of-freedom defined relative to the flexible shaft (Figs 6a-f; col 7, lns 30-col10, lns 14), the flexible shaft restrained in the first degree-of-freedom at each position of the plurality of discrete position (Figs 6a-f; col 7, lns 30-col10, lns 14), the flexible shaft movable through a predetermined displacement of a second degree-of-freedom defined relative to the flexible shaft at each position of the plurality of discrete positions (Figs 6a-f; col 7, lns 30-col10, lns 14; especially col 10, lns 7-14); and wherein motion of the flexible shaft relative to the handle assembly results in a controllable sweeping motion at the distal end the flexible shaft (Figs 6a-f; col 7, lns 30-col10, lns 14); as to claims 2-3, (Figs 6a-f; col 7, lns 30-col10, lns 14); as to claims 4-6 (Figs 6a-f; col 7, lns 30-col10, lns 14; especially 214 and/or 216); as to claim 7 (Figs 6a-f; col 7, lns 30-col10, lns 14); as to claim 9 (Figs 6a-f; col 7, lns 30-col10, lns 14); wherein the slot and pin arrangement includes a serpentine slot (152) provided on the

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guide member (152) slidably coupled to a pin (25) provided on the housing); as to claim 10 (Figs 6a-f; col 7, lns 30-col10, ln 14; wherein the slot and pin arrangement includes a serpentine slot provided on the housing (156, see proximal end) slidably coupled to a pin (27) provided on the housing).

13. In reference to claims 18-20, the Examiner notes that the Applicant has invoked 35 U.S.C. 112 6th paragraph. Khaikhahan et al discloses an equivalence means for selectably moving the shaft between the plurality of discrete positions of a first degree-of-freedom defined relative to the shaft; means for restraining a motion of the shaft in the first degree-of-freedom at each position of the plurality of discrete positions; and means for moving the flexible shaft through a second degree-of-freedom defined relative to the flexible shaft at each position of the plurality of discrete positions (see above citations and references to Khaikhahan et al). Khaikhahan et al has an equivalent serpentine slot and pin arrangements in combination with the other elements as disclosed by the Applicant's invention to selectably move the shaft into a plurality of discrete positions, restraining the motion of the shaft in each of the discrete positions, and then moving the shaft through a second degree-of-freedom (either rotational or longitudinal motion is disclosed) at each of the plurality of discrete positions.

Response to Arguments

14. Applicant's arguments with respect to claims 1-7, 9-10, 18-20 have been considered but are moot in view of the new ground(s) of rejection.

15. The previous notice of allowability of claims 9 and 10 if claims 9 and 10 were put into independent form has been withdrawn in view of the prior art discussed above.

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Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mueller et al (6554794); Gould et al (5055109); Frisbie et al (4664113); Giba et al (5876373) or (6530913); Cookston et al (6132390); Kunis et al (6491681).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571) 272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Andrew Gilbert

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

